IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:05CV389

PRECISION COMPONENTS, INC.,)	
Plaintiff,))	
vs.)	ORDER
C.W. BEARING USA, INC., LIRONG HU and STEVEN TSAI,)	
Defendants.)))	

This matter is before the court upon the Plaintiff's Motion to Remand. This action was originally filed in the Superior Court of Mecklenburg County. On September 6, 2005, the Plaintiff voluntarily dismissed the sole North Carolina Defendant, James Coble, and Defendants thereafter filed a timely Notice of Removal on September 13, 2005, based upon diversity of citizenship. The Plaintiff does not dispute diversity or the timeliness of removal, but rather argues in its Motion to Remand that Defendant Tsai did not consent to removal because at the time the Notice of Removal was filed, he had appealed a ruling by the trial court judge denying his motion to dismiss to the North Carolina Court of Appeals. Plaintiff argues that the Rooker-Feldman doctrine applies to prevent this court from asserting jurisdiction.

The Plaintiff's argument is without merit. Rooker-Feldman has no application to the instant matter. Defendants are not seeking an appellate review of a state court judgment in this court by the filing of a new lawsuit. Defendants properly removed this matter to federal court once diversity jurisdiction arose. Removal divested the North Carolina Court of Appeals of jurisdiction to hear Defendant Tsai's appeal of the order denying his motion to dismiss.

Defendant Tsai is certainly free to raise his motion again in this court, and indeed has done so.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Remand is hereby DENIED.

Signed: January 6, 2006

Graham C. Mullen Chief United States District Judge